

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

JIM LEE

v.

SUNPATH, LTD

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CASE NO. _____

DEFENDANT SUNPATH, LTD.'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1332, 1441, and 1446, Defendant, SunPath, Ltd., by and through its undersigned counsel, hereby removes the above-captioned action, by the filing of this Notice of Removal with the United States District Court for the Eastern District of Texas. As grounds for removal, Defendant states as follows:

1. On or about November 5, 2020, Plaintiff Jim Lee ("Plaintiff") filed a complaint in the Justice Court, Precinct No. 4, of Collin County, Texas, entitled *Jim Lee v. Sunpath, Ltd.* under Case No. 04-SC-20-00194 ("State Court Action").

2. On or about December 4, 2020, Defendant was served with the Citation, Plaintiff's Original Petition, and Plaintiff's Amended Petition. A true and correct copy of Plaintiff's Original Petition is attached hereto as Exhibit D. The accompanying citation is attached hereto as Exhibit E. A true and correct copy of Plaintiff's Amended Petition is attached hereto as Exhibit F. A true and correct copy of the Service of Process Receipt is attached hereto as Exhibit G.

3. On or about December 17, 2020, Defendant filed its Original Answer. A true and correct copy of Defendant SunPath, Ltd.'s Original Answer is attached hereto as Exhibit H.

4. On or about December 31, 2020, Defendant filed its Notice of Removal of State Court Action. A true and correct copy of Defendant Sunpath, Ltd.'s Notice of Removal of State Court Action is attached hereto as Exhibit I.

5. Pursuant to 28 U.S.C. § 1446(a), a complete copy of all process and pleadings served on Defendant and Plaintiff in the State Court Action can be found in Exhibits D-I.

6. Pursuant to Local Civil Rule of the United States District Court for the Eastern District of Texas CV-81(c)(1), a list of all parties in the case is attached hereto as Exhibit A.

7. Pursuant to Local Civil Rule of the United States District Court for the Eastern District of Texas CV-81(c)(2), a copy of the Civil Cover Sheet is attached hereto as Exhibit B.

8. Pursuant to Local Civil Rule of the United States District Court for the Eastern District of Texas CV-81(c)(2), a copy of the Justice of the Peace, Precinct No. 4 Court of Collin County's notice of closure from December 21st, 2020, through January 1st, 2021, is attached as Exhibit C in lieu of a certified docket sheet until such time one can be retrieved when the Court re-opens on January 4th, 2021.

9. Pursuant to Local Civil Rule of the United States District Court for the Eastern District of Texas CV-81(c)(3), a copy of the list of attorneys involved in the action being removed is attached hereto as Exhibit J.

10. Pursuant to Local Civil Rule of the United States District Court for the Eastern District of Texas CV-81(c)(4), neither party requested a jury trial in state court.

11. Pursuant to Local Civil Rule of the United States District Court for the Eastern District of Texas CV-81(c)(5), the name and address of the Court from which this case was removed is Collin County Justice Court, Precinct 4, Texas, located at the Collin County Courthouse, 8585 John Wesley Drive, Suite 130, Frisco, Texas, 75034.

12. Pursuant to 28 U.S.C. § 1446(b) and Fed. R. Civ. Proc., Rule 6, this Notice of Removal is timely because it has been filed within 30 days of Sunpath's receipt of the citation and complaint.

13. This Court is the district and division "embracing the place where [the State Court] action is pending." 28 U.S.C. § 1441(a).

14. This action is removable to this Court under 28 U.S.C. § 1441(a), because it is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1331.

15. Plaintiff's Complaint alleges violations of a federal law and requires the construction of federal law, thereby triggering federal question jurisdiction. Specifically, Plaintiff's Complaint asserts that Defendant violated the Telephone Consumer Protection Act, 47 U.S.C. § 227. See Exhibit F, ¶ 8. Thus, this case is a civil action over which this Court has original federal question jurisdiction pursuant to 28 U.S.C. § 1331.

16. As a result, this Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1331, because Plaintiff's Complaint is founded on claims or rights arising under the laws of the United States, and removal is appropriate under 28 U.S.C. § 1441.

17. By filing this Notice of Removal, SunPath does not waive any defenses that it may have to Plaintiff's claims.

Respectfully submitted,

By: /s/ Jason Wagner

Jason Wagner
jwagner@jwagnerlaw.com
State Bar No. 00795704
Federal Bar No. 20325
Two North Main Street
Kingwood, Texas 77339
Telephone: (713) 554-8450
Facsimile: (713) 554-8451

ATTORNEYS FOR DEFENDANT
SUNPATH, LTD.

OF COUNSEL:

WAGNER LAW, PLLC

Two North Main Street
Kingwood, Texas 77339
Telephone: (713) 554-8450
Facsimile: (713) 554-8451

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Defendant Sunpath, Ltd.'s Notice of Removal** was served, pursuant to Federal Rule of Civil Procedure 5, via e-service, on this the 31st day of December 2020, to:

Eric Roberson
Kilgore & Kilgore, PLLC
3109 Carlisle Street
Dallas, Texas 75204
(Attorneys for Plaintiff)

/s/Jason Wagner
Jason Wagner